



STATE REPRESENTATIVE  
**TERESE BERCEAU**

WISCONSIN STATE ASSEMBLY

76TH DISTRICT

**TESTIMONY IN SUPPORT OF ASSEMBLY BILL 163**  
Assembly Committee on Elections and Campaign Reform  
Tuesday, April 21, 2009

In the last presidential election, no matter what side you were on, it was heartening to see the level of excitement, passion, and involvement from young, old, rich and poor. I think we all thought—democracy is alive and well.

With this excitement came the desire to advocate or show support for the candidate of your choice. While many landlords are neutral about displaying signs, some are not. This bill gives a specific right to display signs, for a limited period of time. Other states have already granted this protection to renters.

The rights of landlords have been carefully considered. Just as condos impose certain limits about the size or placement of signs, this bill sets forth reasonable guidelines. In addition to size and placement, there is a time limit of 30 days before an election, with the sign required to be taken down within 15 days after.

In summary of the bill:

- Landlords cannot prohibit tenants from displaying political signs (those supporting or opposing candidates or referenda)
- Size limit of 28 inches by 22 inches
- Sign may be displayed from 30 days before an election to 15 days after an election
- Same as protections currently afforded to condo residents
- Sign can be displayed in or on a window, door, or balcony of the rental premises

I would say that we have already established precedent for this in that we required condo owners and their associations to allow residents to display the American Flag, a practice that was prohibited by some condos.

Many of our citizens might not even know that because they rent, they have no right to display support of the candidate of their choice. This bill grants this right, and helps renters join the rest of us in participating fully in our democracy at election time.

## Assembly Committee on Elections and Campaign Reform

### 2009 Assembly Bill 163

Testimony of Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board  
April 21, 2009

Chairperson Smith and Committee Members:

Thank you for the opportunity to appear before this committee and testify regarding Assembly Bill 163. This testimony is for information purposes only. The Government Accountability Board does not take a position in support of or opposition to the legislation.

This Bill addresses the ability of tenants to display political signs on the tenants' rental unit premises. This ability is currently codified in Section 12.04(2), Wis. Stats., which provides that an individual may place a sign containing a political message upon residential property owned or occupied by that individual during an election campaign period. Furthermore, Section 12.04(5)(a), Wis. Stats., specifically provides that a renter of residential property may exercise the same right as the owner to place a sign upon the property in any area occupied exclusively by the renter, with the terms of the lease or other agreement controlling whether property is occupied exclusively by the renter. Section 12.04(5)(b), Wis. Stats., does permit the owner of the rental property to exercise this same right in any portion of the property not occupied exclusively by a renter.

Assembly Bill 163 goes further than Section 12.04, Wis. Stats., and establishes time limits for displaying a sign in support of or opposition to a candidate for public office or a referendum question. The Bill specifically limits the display of such a sign to the period that begins 30 days before an election and ends 15 days after the election. There has been previous Federal litigation regarding such time limitations and they have been ruled unconstitutional by U.S. District Judge Charles N. Clevert of the Eastern District of Wisconsin in *Walter Fiedorowicz v. The City of Pewaukee*, Case, No.02-C-0830. Based upon First Amendment Free Speech rights, Judge Clevert specifically invalidated durational restrictions on political signs in the City of Pewaukee, where an ordinance prohibited political signs from being erected prior to 45 days before an election and required removal of the signs within 7 days following an election.

The Department of Transportation had identical durational limits as the City of Pewaukee in its Administrative Code. See Trans 202.16(2)(c), Wis. Adm. Code. The Department of Transportation suspended enforcement of the durational limitations as a result of the *Feidorowicz* decision.

The legislature may wish to consider revising Assembly Bill 163 to amend Chapter 704 to simply prohibit a landlord or property owner from restricting a tenant's ability to

display a sign in support of or opposition to a candidate for public office or a referendum question, reference the rights established in Sections 12.04(2) and (5), Wis. Stats., and provide that any provision of a rental agreement in violation of these requirements is void and unenforceable.

I appreciate your consideration of these issues with regard to this bill and will answer any questions you may have at this time.

Thank you.

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